

HOUSE BILL NO. 1511

Introduced by

Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer

Senators Lee, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact a new section to chapter 34-03 of the North Dakota
2 Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact
3 section 23-12-20 of the North Dakota Century Code, relating to limitations on requiring
4 documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to
5 repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to
6 limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-
7 transmission recovery status and employer-required COVID-19 vaccinations; and to provide an
8 effective date.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 23-12-20 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **23-12-20. VaccineCOVID-19 vaccination and infection information.**

- 13 1. ~~Except as provided under sections 15-1-23-02, 23-01-05.3, and 23-07-17.1,~~
14 ~~neither~~Neither a state government entity nor any of its political subdivisions, agents, or
15 assigns may:
- 16 a. Require documentation, whether physical or electronic, for the purpose of
17 certifying or otherwise communicating the following before providing access to
18 state property, funds, or services:
- 19 (1) An individual's COVID-19 vaccination status;
20 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
21 (3) An individual's COVID-19 post-transmission recovery status;
- 22 b. Otherwise publish or share an individual's COVID-19 vaccination record or similar
23 health information, except as specifically authorized by the individual or otherwise
24 authorized by statute; ~~or~~

- 1 c. Require a private business to obtain documentation, whether physical or
2 electronic, for purposes of certifying or otherwise communicating the following
3 before employment or providing access to property, funds, or services based on:
4 (1) An individual's COVID-19 vaccination status;
5 (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
6 (3) An individual's COVID-19 post-transmission recovery status; or
7 d. This subsection does not apply to the department of corrections and
8 rehabilitation, a correctional facility as defined under section 12-44.1-01, the state
9 hospital, or a public health unit.
- 10 2. A private business located in this state or doing business in this state may not require
11 a patron, client, or customer in this state to provide any documentation certifying
12 COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies,
13 or COVID-19 post-transmission recovery to gain access to, entry upon, or services
14 from the business. This subsection does not apply to a developmental disability
15 residential facility or a health care provider, including a long-term care provider, basic
16 care provider, and assisted living provider. As used in this subsection, a private
17 business does not include a nonprofit entity that does not sell a product or a service.
- 18 3. This section may not be construed to interfere with an individual's rights to access that
19 individual's own personal health information or with a person's right to access personal
20 health information of others which the person otherwise has a right to access.
- 21 4. ~~Subsection 1 is not applicable to the state board of higher education, the university~~
22 ~~system, or institutions under the control of the state board of higher education to the~~
23 ~~extent the entity has adopted policies and procedures governing the type of~~
24 ~~documentation required, the circumstances under which such documentation may be~~
25 ~~shared, and exemptions from providing such documentation.~~
- 26 5. This section is not applicable during a public health disaster or emergency declared in
27 accordance with chapter 37-17.1.
- 28 ~~6.5. This section is limited in application to a vaccination authorized by the federal food~~
29 ~~and drug administration pursuant to an emergency use authorization does not apply to~~
30 ~~the extent a federal law, rule, or guidance preempts application, or to the extent~~

~~application would result in a person incurring direct financial losses due to
noncompliance with the federal law, rule, or guidance.~~

~~6.5.~~ As used in this section, the term "COVID-19" means severe acute respiratory
syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
fragments of SARS-CoV-2.

SECTION 2. A new section to chapter 34-03 of the North Dakota Century Code is created
and enacted as follows:

COVID-19 vaccination requirements - Exemptions.

1. As used in this section, the term "COVID-19" means severe acute respiratory
syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral
fragments of SARS-CoV-2.
2. If an employer ~~in this state~~ or contractor requires an employee ~~or~~ prospective
employee, or independent contractor in this state to be vaccinated against COVID-19
as a condition of employment or a term of a contract:
 - a. The employer or contractor shall allow the employee, prospective employee, or
independent contractor to submit proof of COVID-19 antibodies as an exemption
to the vaccination requirement. Such proof is valid for ~~twelve~~six months from the
date of the antibody test.
 - b. The employer or contractor shall allow the employee, prospective employee, or
independent contractor to submit to periodic COVID-19 tests as an exemption to
the vaccination requirement. ~~Under this subdivision, the employer may not
require more than two tests per week but the employee may be responsible for
the cost of the testing.~~
 - c. The employer or contractor shall allow the employee, prospective employee, or
independent contractor to submit one of the following certificates as an
exemption to the vaccination requirement:
 - (1) A certificate from a North Dakota licensed physician, physician assistant, or
advanced practice registered nurse stating the physical condition of the
employee, prospective employee, or independent contractor is such that
immunization would endanger the life or health of the employee,
prospective employee, or independent contractor; or

1 (2) A certificate signed by the employee, prospective employee, or independent
2 contractor stating the employee's, prospective employee's, or independent
3 contractor's religious, philosophical, or moral beliefs are opposed to such
4 immunization.

5 3. This section does not apply to the extent an employer or an independent contractor is
6 required to comply with federal law, rules, or guidance resulting from Title 42, Code of
7 Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of
8 Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; the presidential
9 executive order on ensuring adequate COVID safety protocols for federal contractors,
10 issued September 9, 2021; or any other federal law, rule, or guidance relating to
11 requirements for vaccinations for COVID-19.

12 **SECTION 3. REPEAL.** Section 23-12-20 of the North Dakota Century Code and section 2
13 of this Act are repealed.

14 **SECTION 4. EFFECTIVE DATE.** Section 3 of this Act becomes effective August 1, 2023.
15 The remainder of this Act becomes effective upon its filing with the secretary of state.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1511

Page 1, line 24, overstrike "or"

Page 2, line 6, after "status" insert "; or"

d. This subsection does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit

Page 2, line 7, after "state" insert "or doing business in this state"

Page 2, line 7, after "patron" insert ", client,"

Page 2, line 7, after "customer" insert "in this state"

Page 2, line 10, remove the overstrike over "~~This subsection~~"

Page 2, line 11, remove the overstrike over "~~does not apply to a~~" and insert immediately thereafter "developmental disability residential facility or a"

Page 2, line 11, remove the overstrike over "~~health care provider~~" and insert immediately thereafter an underscored comma

Page 2, line 11, remove the overstrike over "~~including a long term care provider~~" and insert immediately thereafter ", basic care provider, and assisted living provider"

Page 2, line 11, remove the overstrike over the overstruck period and insert immediately thereafter "As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service."

Page 2, line 22, remove "5."

Page 2, line 22, overstrike "This section"

Page 2, line 23, remove "does not apply to the"

Page 2, remove lines 24 through 26

Page 2, line 27, replace "6." with "5."

Page 3, line 5, replace "in this state" with "or contractor"

Page 3, line 5, replace "or" with an underscored comma

Page 3, line 5, after the second "employee" insert ", or independent contractor in this state"

Page 3, line 6, after "employment" insert "or a term of a contract"

Page 3, line 7, after "employer" insert "or contractor"

Page 3, line 7, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 8, replace "twelve" with "six"

Page 3, line 10, after "employer" insert "or contractor"

Page 3, line 10, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 11, remove "Under this subdivision, the"

Page 3, remove lines 12 and 13

Page 3, line 14, after "employer" insert "or contractor"

Page 3, line 14, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 16, after "a" insert "North Dakota"

Page 3, line 16, after "physician" insert ", physician assistant, or advanced practice registered nurse"

Page 3, line 17, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 18, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee" insert ", prospective employee, or independent contractor"

Page 3, line 19, after "employee's" insert ", prospective employee's, or independent contractor's"

Page 3, after line 20, insert:

"3. This section does not apply to the extent an employer or an independent contractor is required to comply with federal law, rules, or guidance resulting from Title 42, Code of Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; the presidential executive order on ensuring adequate COVID safety protocols for federal contractors, issued September 9, 2021; or any other federal law, rule, or guidance relating to requirements for vaccinations for COVID-19."

Renumber accordingly